No	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGES'S ORDERS
			WPSS No. 21550 of 1998 (New No. 3654 of 2021) Hon'ble Manoj Kumar Tiwari, A.C.J. Mr. B.S. Negi, Advocate for the petitioner. 2. Mr. Bhuwnesh Joshi, Advocate for respondents. Delay Condonation Application (IA No. 2 of 2023) 3. There is delay of 5726 days in filing this review application. 4. For the reasons indicated in the affidavit, filed in support of Delay Condonation Application, delay of 5726 days is condoned. The Delay Condonation Application is, accordingly, allowed. Review Application (MCC No. 1 of 2023) 5. This writ petition was filed before Hon'ble Allahabad High Court in the year 1998 challenging order of termination passed by Senior Regional Manager, Food Corporation of India, Lucknow, in which, interim order was passed on 09.07.1998 staying the effect and operation of impugned orders until further orders. 6. The writ petition was transferred to this Court in view of provision contained in Section 35(2) of U.P. Reorganisation Act, 2000. A co-ordinate Bench of this Court dismissed the writ petition vide order dated 11.12.2007 on the ground of alternate remedy. 7. Petitioner has sought review of the order dated 11.12.2007. It is contended that petitioner did not have knowledge about dismissal of writ petition, as neither his counsel nor Food Corporation of India

			informed petitioner about the same and he came to know about the said order, only when his services were terminated w.e.f. 31.03.2023. It is further contended that petitioner filed WPSS No. 572 of 2023, which was dismissed vide order dated 12.04.2023, with liberty to him to move appropriate application in the earlier writ petition. Operative portion of the order dated 12.04.2023 is extracted below:- *"Since termination order passed against petitioner on 30.03.1998/01.04.1998 was put to challenge before Hon'ble Allahabad High Court in WPSS No. 21550 of 1998 and Hon'ble Allahabad High Court granted stay against these orders, therefore, on the strength of the interim order, petitioner continued in service so far. However, the fact remains that interim order was vacated upon dismissal of writ petition on 11.12.2007, therefore, termination of petitioner's service w.e.f. 31.03.2023 is consequential to dismissal of the writ petition. Thus, it does not give an independent cause of action to petitioner to maintain a separate writ petition. The remedy of the petitioner lies elsewhere.* *In such view of the matter, the writ petition is dismissed, with liberty to petitioner to move appropriate application in his earlier writ petition."* 8. Learned counsel for the petitioner/review applicant submits that at the time of termination of his service, petitioner was serving as Watchman; however, during pendency of writ petition, he was promoted as Head Watchman. He further submits that sole ground for terminating services of petitioner was that he possessed High School Qualification; while, the qualification required for the post of Watchman was 8th standard. 9. Learned counsel for the petitioner/ review applicant submits that the ground taken for terminating services of petitioner is

			unsustainable, as no one can be punished for possessing educational qualification higher than what is required for a post. He further submits that High School qualification can be acquired only after passing 8th standard examination, therefore, petitioner possessed the requisite qualification for appointment as Watchman. He further contended that petitioner had not applied directly to Food Corporation of India and his name was sponsored by the Employment Exchange, and petitioner had disclosed his actual qualification in the application submitted for registration with the Employment Exchange, therefore, petitioner cannot be blamed for furnishing incorrect information about his academic qualification. 10. This Court finds some substance in the contention raised on behalf of petitioner. In the absence of any provision in applicable Rules that possession of higher qualification will be treated as disqualification for appointment, the reason assigned for terminating services of petitioner appears to be *prima facie* bad. 11. However, the writ petition was dismissed on the ground of alternate remedy by holding that petitioner has remedy of approaching the forum under Industrial Disputes Act, therefore, this Court is not inclined to invoke review jurisdiction for reviewing/recalling the order dated 11.12.2007, as there is no error apparent on the face of record, which may justify invocation of review jurisdiction. 12. Accordingly, the review application is dismissed. No order as to costs. (Manoj Kumar Tiwari, A.C.J.) 02.11.2023 Navin